

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

NARCISO AND MARIE M. SANCHEZ,
)
)
Plaintiffs,
)
vs.
)
THE BANK OF NEW YORK AS TRUSTEE
FOR ASSET-BACKED CERTIFICATES
TRUST 2005-1, DBA "TRUSTEE CORPS"
AND BANK OF AMERICA, N.A. DBA
"BAC HOME LOAN SERVICING, LLP"
AND TRUSTEE CORPS,
)
Defendants.
)

Case No.: 2:15-cv-01249-GMN-GWF

ORDER

THE BANK OF NEW YORK AS TRUSTEE
FOR ASSET-BACKED CERTIFICATES
TRUST 2005-1, DBA "TRUSTEE CORPS"
AND BANK OF AMERICA, N.A. DBA
"BAC HOME LOAN SERVICING, LLP"
AND TRUSTEE CORPS,
Defendants.

Pending before the Court is the Motion to Dismiss (ECF No. 6) filed by Defendants The of New York as Trustee for Asset-Backed Certificates Trust 2005-1, DBA “Trustee s” (“BONY”) and Bank of America, N.A. (“BANA”) (collectively, “Defendants”).

Plaintiffs Narciso and Marie M. Sanchez (“Plaintiffs”) did not file a response. However, four days after the deadline to file a response, Plaintiffs filed a Motion to Amend Complaint (ECF No. 11). To date, no points or authorities have been filed in opposition to the Motion to Amend.

Rule 15(a)(2) provides that “[t]he court should freely give leave [to amend] when justice so requires,” and when there is no “undue delay, bad faith [,] dilatory motive on the part of the movant ... undue prejudice to the opposing party by virtue of ... the amendment, [or] futility.” Fed. R. Civ. P. 15(a); *Foman v. Davis*, 371 U.S. 178, 182, 222 (1962). Generally, leave to amend is only denied when it is clear that the deficiencies of the complaint cannot be cured by amendment. *See DeSoto v. Yellow Freight Sys., Inc.*, 957 F.2d 655, 658 (9th Cir. 1992). As

1 stated above, Defendants have failed to file any points or authorities in opposition to Plaintiffs'
2 Motion to Amend as allowed by LR 7-2(d). LR 7-2(d) provides that "failure of an opposing
3 party to file points and authorities in response to any motion shall constitute a consent to the
4 granting of the motion." LR 7-2(d).

5 Accordingly, Plaintiffs' Motion to Amend is granted pursuant to Fed. R. Civ. P. 15, and
6 LR 7-2(d). Additionally, because Defendants' Motion to Dismiss (ECF No. 6) is based on the
7 allegations of the original Complaint, said Motion is denied as moot.

8 **IT IS HEREBY ORDERED** that Plaintiffs' Motion to Amend Complaint (ECF No. 11)
9 is **GRANTED**.

10 **IT IS FURTHER ORDERED** that Defendants' Motion to Dismiss (ECF No. 6) is
11 **DENIED as moot**.

12 **DATED** this 28 day of October, 2015.



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Gloria M. Navarro, Chief Judge
18 United States District Judge
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